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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,345	08/05/2003	Douglas A. Gourlay	281132	6747
76863	7590	11/13/2008	EXAMINER	
Kraguljac & Kalnay 4700 Rockside Road Summit One, Suite 510 Independence, OH 44131			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2445	
			MAIL DATE	DELIVERY MODE
			11/13/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,345	GOURLAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey R. Swearingen	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 July 2008.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-13 and 28-33 is/are pending in the application.
  - 4a) Of the above claim(s) 2 and 27 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-13 and 28-33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 7/3/2008 have been fully considered but they are not persuasive.
2. Applicant argued that O'Toole failed to disclose configuring the given communication port to communicate using the particular protocol used by the remote device to communicate through the given communication port. When O'Toole detects the device, the given communication port is "configured" to communicate using the "particular protocol used by the remote device" to communicate through the given communication port. If O'Toole wasn't configured to do this, then O'Toole would not detect any devices during the polling. Communicating using the particular protocol and configuring the port to communicate as such is the only way that O'Toole notifies that a particular device is detected.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-13 and 28-33 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Toole, Jr. (US 7,024,548).

5. In regard to claim 1, 28, O'Toole disclosed:

*monitoring a communications protocol associated with a remote device on a given communication port of the data communication device without participating in the communications protocol;* column 12, lines 20-52

*detecting that the remote device uses a particular protocol in which to communicate through the given communication port with a network resource;* column 12, lines 20-52 *detects the remote device is communicating.* The device is inherently communicating with a *particular protocol.*

*based on the monitored communications, detecting an attribute of the remote device; column 12, lines 20-52*

*in response to detecting the attribute of the remote device, retrieving one of multiple configuration profiles corresponding to the attribute of the remote device; and column 18, lines 26-41*

*configuring the given communication port of the data communication device with the retrieved one of multiple configuration profiles to support future communications with the remote device. Column 20, lines 37-45*

*wherein configuring the given communication port includes configuring the given communication port based on detecting the particular protocol used by the remote device to communicate through the given communication port. Column 12, lines 20-52. Applicant failed to claim that upon detecting a particular protocol, the device is configured in such a manner as to match a configuration profile which is linked to the detection of the particular protocol in question.*

6. In regard to claim 3, O'Toole disclosed:

*monitoring initial communications with the remote device based on the communications protocol after coupling the remote device to the data communication device via the given communication port.*

Column 12, lines 53-65

7. In regard to claim 4, O'Toole disclosed:

*in the event that a configuration profile does not exist for the detected attribute of the remote device, configuring a corresponding communication port of the communication device with a default configuration profile. Column 12, lines 20-52 deals with the detection of an attribute of a device, and configuring a port appropriately is taught in column 20, lines 37-45*

8. In regard to claim 5, O'Toole disclosed:

*polling a network node for updated configuration profiles; and column 12, lines 20-52  
in response to polling, storing at least one of the updated configuration profiles from the network node to local memory of the data communication device. Column 12, lines 53-65.*

9. In regard to claim 6, O'Toole disclosed:

*receiving a message at the data communication device from a network node indicating availability of updated configuration profiles; and column 12, lines 20-52*

*receiving the updated configuration profiles from the network node to local memory of the data communication device. Column 12, lines 53-65*

10. In regard to claim 7, O'Toole disclosed:

*determining a network address associated with the remote device; column 13, lines 39-62*

*identifying a particular type associated with the remote device; and column 13, lines 39-62*

*wherein retrieving one of multiple configuration profiles includes retrieving a configuration profile depending on the identified particular type of remote device. Column 13, lines 39-62; column 14, lines 5-14*

11. In regard to claim 8, O'Toole disclosed:

*detecting the attribute of the remote device indicating its type includes detecting an attribute based on at least one of : 802.1x user authentication, CDP (Cisco Discovery Protocol), MAC address/mask assignment, IP address assignment, DHCP (Dynamic Host Configuration Protocol) response, ACL (Access Control Lists), and hardware and software associated with the remote device.*

Column 13, lines 39-62

12. In regard to claim 9, O'Toole disclosed:

*detecting a change in a network address associated with the remote device. Column 13, lines 39-62*

13. In regard to claim 10, O'Toole disclosed:

*retrieving one of multiple configuration profiles includes retrieving one of multiple configuration profiles that includes information indicating how to set at least one parameter of the given communication port to support future communications with the remote device. Column 12, lines 53-65*

14. In regard to claim 11, O'Toole disclosed:

*configuring the given communication port of the data communication device with the retrieved configuration profile includes setting the given port of the data communication device based on at least one of the following parameter types: protocol type, LACP (Link Aggregation Control Protocol), security*

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*policies, security parameters, access control lists, UDLD (Uni-Directional Link Detection), Etherchannel, Spanning Tree, VLANs (Virtual Local Area Networks), routing protocols, and QoS (Quality of Service).*

Column 13, lines 39-62 (47-56 deal with security parameters such as verification of a checksum and identity of a user)

15. In regard to claim 12, O'Toole disclosed:

*storing the multiple configuration profiles at a network node accessible to the data communications device over a network link; and column 12, lines 53-65*

*wherein retrieving the configuration profile includes obtaining a configuration profile from the network node accessible to the data communication device. Column 12, lines 53-65*

16. In regard to claim 13, O'Toole disclosed:

*applying multiple attribute discovery mechanisms to identify a corresponding configuration profile to configure the given communication port associated with the remote device, the multiple attribute discovery mechanisms including i) a first attribute discovery mechanism for discovering an authentication attribute associated with the remote device, and ii) a second attribute discovery mechanism for discovering a change in a setting associated with the remote device. Column 12, lines 30-52*

17. In regard to claim 28, O'Toole disclosed:

*wherein the data communication device is a switch device having the multiple communication ports on which to communicate with multiple different remote devices; and column 11, lines 36-40*

*wherein configuring the given communication port includes configuring the given port of the switch device based on learned attributes of the remote device, configuring of the given communication port enabling communications from a source through the given communication port over a network connection to the remote device. Column 12, lines 20-52*

18. In regard to claim 29, O'Toole disclosed:

*after configuring the given communication port, notifying the remote device that the given communication port of the data communication device has been configured via use of the retrieved one of multiple configuration profiles. Column 14, lines 5-14*

19. In regard to claim 30, O'Toole disclosed:

*in response to configuring the given communication port with the retrieved one of multiple configuration profiles, notifying the remote device how to set parameters associated with a port of the remote device.* Column 14, lines 5-14

20. In regard to claim 31, O'Toole disclosed:

*identifying the particular type associated with the remote device includes detecting that the network address assigned to the remote device falls within a range of network addresses, each of multiple similar types of remote devices having an assigned address in the range requiring similar types of communication port settings; and column 13, lines 39-62*

*wherein identifying the particular type associated with the remote device comprises determining the particular type based on knowing a type associated with the multiple remote devices that have a corresponding network address falling within the range.* Column 13, lines 39-62

21. In regard to claim 32, O'Toole disclosed:

*detecting a second attribute associated with the remote device;* column 12, lines 20-52

*identifying a higher associated priority of the first attribute and the second attribute;* column 12, lines 20-52

*utilizing one of the first attribute and second attribute having the identified higher associated priority in which to identify a corresponding configuration profile for configuring the given communication port.* Column 12, lines 20-52

22. In regard to claim 33, O'Toole disclosed:

*identifying a quality of service as specified by the retrieved one of multiple configuration profiles;* and column 20, lines 41-45

*setting the given communication port to support the quality of service as specified by the retrieved one of multiple configuration profiles.* Column 20, lines 41-45

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

24. Bullard US 7,243,143

25. Bhogal et al. US 7,376,717

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26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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